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MISSION

ORIGINAL

47

CASE/COMPANY NAME:

DOCKET NO. RT 00000J-99-0034

IN THE MATTER OF RULES TO

2001 AUG -6 P 4: 47

ADDRESS SLAMMING AND OTHER

DECEPTIVE PRACTICES

AZ CORP COMMISSION  
DOCUMENT CONTROL

## NATURE OF ACTION OR DESCRIPTION OF DOCUMENT

Please mark the item that describes the nature of the case/filing:

## 01 UTILITIES - NEW APPLICATIONS

NEW CC&amp;N

RATES

INTERIM RATES

CANCELLATION OF CC&amp;N

DELETION OF CC&amp;N (TERRITORY)

EXTENSION OF CC&amp;N (TERRITORY)

TARIFF - NEW (NEXT OPEN MEETING)

REQUEST FOR ARBITRATION

(Telecommunication Act)

FULLY OR PARTIALLY ARBITRATED

INTERCONNECTION AGREEMENT

(Telecom. Act.)

VOLUNTARY INTERCONNECTION

AGREEMENT (Telecom. Act)

MAIN EXTENSION

CONTRACT/AGREEMENTS

COMPLAINT (Formal)

RULE VARIANCE/WAIVER REQUEST

SITING COMMITTEE CASE

SMALL WATER COMPANY -SURCHARGE (Senate Bill 1252)

SALE OF ASSETS &amp; TRANSFER OF OWNERSHIP

SALE OF ASSETS &amp; CANCELLATION OF CC&amp;N

FUEL ADJUSTER/PGA

MERGER

FINANCING

MISCELLANEOUS

Specify

Arizona Corporation Commission

DOCKETED

02 UTILITIES - REVISIONS/AMENDMENTS TO  
PENDING OR APPROVED MATTERS

APPLICATION

COMPANY

DOCKET NO.

TARIFF

PROMOTIONAL

DECISION NO.

DOCKET NO.

COMPLIANCE

DECISION NO.

DOCKET NO.

AUG 06 2001

DOCKETED BY

## SECURITIES or MISCELLANEOUS FILINGS

04 AFFIDAVIT

12 EXCEPTIONS

18 REQUEST FOR INTERVENTION

48 REQUEST FOR HEARING

24 OPPOSITION

50 COMPLIANCE ITEM FOR APPROVAL ☒

32 TESTIMONY

47 COMMENTS

29 STIPULATION

38 NOTICE OF INTENT

(Only notification of future action/no action necessary)

43 PETITION

46 NOTICE OF LIMITED APPEARANCE

39 OTHER

Comments of AT&T on the Draft Slamming  
and Cramming Rules

Specify

August 6, 2001

Date

Joan S. Burke

Print Name of Applicant/Company/Contact person/Respondent/Atty.  
602-640-9356

Phone

PLEASE SEE NOTICE ON REVERSE SIDE

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

**WILLIAM A. MUNDELL**  
Chairman

Arizona Corporation Commission

2001 AUG -6 P 4: 47

**JIM IRVIN**  
Commissioner

DOCKETED

AUG 06 2001

AZ CORP COMMISSION  
DOCUMENT CONTROL

**MARC SPITZER**  
Commissioner

DOCKETED BY

**IN THE MATTER OF RULES TO  
ADDRESS SLAMMING AND OTHER  
DECEPTIVE PRACTICES**

DOCKET NO. RT 00000J-99-0034

**COMMENTS OF AT&T ON THE DRAFT  
SLAMMING AND CRAMMING RULES**

**I. INTRODUCTION**

The Second Draft Proposed Rules ("Draft Rules") distributed to interested parties on July 2, 2001, incorporate many of the suggestions offered in comments by telecommunications carriers at the June 13, 2001 workshop. AT&T Communications of the Mountain States, Inc. ("AT&T") commends the Commission for soliciting and using suggestions from all interested parties and appreciates this opportunity to comment on this second draft of the proposed Rules.

AT&T asks that the Commission, in revising these draft rules, look closely at the purpose served by each rule. Many of these rules impose costs on a market where the type of protections contemplated do little to advance or protect the public interest. (For example maintaining specific information regarding every customer inquiry or complaint for two full years does little to benefit consumers.) Indeed, some of these rules serve as barriers to entry that will undermine the ability of new entrants to compete. Costs

associated with these proposed rules will merely increase Qwest's recoverable revenue requirement and decrease the operating margins for new CLECs. Given the current state of competition and the growing CLEC "graveyard" in Qwest's service territory, the addition of costs that do little to further the public interest discourage CLEC participation in the market and thus limit the provider and service options available to consumers.

What follows are AT&T's comments on specific rules. In each case, the revised rule is set forth exactly as it appears in the Second Draft - Proposed Rules, issued by the Director of the Utilities Division on July 2, 2001. AT&T's comments, in italicized text, follow the rule (or rule sub-part) and describe AT&T's concerns and/or questions. In many instances, the comment concludes with language offered by AT&T to resolve the problem created by the rule as drafted. To the extent the Commission Staff have questions about any of these suggestions, or would like to discuss alternate language, please contact us. AT&T representatives would be happy to discuss any of the proposed rules and/or the comments that follow.

## II. ARTICLE 19. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHANGES

### R. 14-2-1901 Definitions

...

- B. "Customer" means the person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for service, or by the receipt and/or payment of bills regularly issued in his name regardless of the identity of the actual user of service as defined by R14-2-501(9).**

*Comment: AT&T recognizes the appeal of defining "customer" consistently across Arizona Administrative Code sections (namely consistent with A.A.C. R14-2-501(9)). This definition, however, is not workable for rules that regulate slamming and cramming. The crux of the Commission's proposed definition is the identity of the bill recipient or bill payer. That information is available only to the customer's existing provider of local,*

*local toll or long distance service, and not to companies seeking to market to the customer. When a person calls AT&T (or any other non-incumbent telephone carrier), AT&T does not have access to that caller's billing information. Because the provider initiating the requested switch generally has no access to billing information, it is meaningless to restrict those authorized to request such a switch to individuals who pay or receive the household's telephone bill. Similarly, when a person has two or three different telephone service providers, what billing information is determinative? The local service account information? The in-state long distance account? The state-to-state long distance account? AT&T submits that the Commission should instead define "customer" consistent with the FCC's definition of "subscriber" found in Part 64 of the Commissions Rules and Regulations, Chapter 1 of Title 47 of the Code of Federal Regulations, §64.1100. This broader definition is workable for carriers, eliminates customer confusion, and will avoid disputes created if two vastly different definitions are used.*

*The importance of this issue is easily illustrated. Under the FCC rules, a spouse in an Arizona household (though not the check signer and not the person listed on the home phone account), could call and switch the family's interstate long distance service to AT&T. During that same call, if the customer wanted to switch her in-state long distance service to AT&T, it appears she would be prohibited by the current "customer" definition. AT&T, however, would have no way of confirming whether or not she was eligible to switch the home phone service. Indeed, many customers have no idea which family member signed the original "application or contract for service." Similarly, this caller's husband may pay the family's monthly bill. (Keep in mind none of this information is known by, or available to, AT&T.) This confusion over billing information is unnecessary and directly contrary to federal law. Under the Arizona law, like the federal law, it should be lawful for any authorized adult (for example a wife, a husband, a partner, or an adult child) to change the telephone service. This is what the FCC definition of "subscriber" allows:*

- (h) The term *subscriber* is any one of the following:
- (1) the party identified in the account records of a common carrier as responsible for payment of the telephone bill;
  - (2) any adult person authorized by such party to change telecommunications services or to charge services to the account; or
  - (3) any person contractually or otherwise lawfully authorized to represent such party.

*47 C.F.R. 64.1100. Insofar as the Commission's rules create potential new liabilities for Telecommunications Companies, these rules should not contradict the FCC rules. The definition of "subscriber" is a cornerstone of the FCC rules and thus it is critical that the Commission's definition of "customer" mirror the FCC definition. Any inconsistencies between the Commission rules and the FCC rules will cause increase compliance costs for companies, confusion for consumers, and additional dispute resolution or litigation*

costs for the Commission. AT&T again asks that for purposes of Article 19 and 20 of the Arizona Administrative Code, the definition used for "customer" be revised to parallel the FCC's definition of "subscriber."

- C. "Customer Account Freeze" means an written authorization, either written, electronic, or with 3<sup>rd</sup> party verification, from a customer to impose a stay on any change in telecommunications services.

*Comment: Thank you for expanding this definition to include all types of authorization permitted by the FCC (written, electronic, and verbal with TPV). Because 3<sup>rd</sup> party verification is used only when verbal authorization is given, we would ask the Commission to insert "verbal" immediately before "with 3<sup>rd</sup> party verification." This revision makes clear that it is the verbal request (coupled with 3<sup>rd</sup> party verification) that authorizes the freeze, and also ties the 3<sup>rd</sup> party verification to the verbal request. (3<sup>rd</sup> party verification is not needed if a written or electronic LOA is available.)*

...

- E. "Letter of Agency" ("LOA") means written authorization, including Internet enabled with electronic signature, from a customer for a change in billing for services telecommunications carrier.

*Comment: For consistency with other defined terms, replace "telecommunications carrier" with "Telecommunications Company." Please capitalize Telecommunications Company, and other defined terms throughout (e.g. in R14-2-1903).*

#### **R14-2-1902 Purpose and Scope**

The provisions of this section are intended to ensure that all customers in this state are protected from an unauthorized change in a customer's local ~~or long distance~~ intraLATA or interLATA long-distance telecommunications company. The rules promote satisfactory service to the public by local and intraLATA or interLATA long-distance and long distance telecommunications company establish the rights and responsibilities of both company and customer. Liability standards and penalties are established to ~~promote~~ ensure compliance.

*Comment: As drafted the second sentence of this sub-part is difficult to understand. AT&T suggests that the Commission Staff replace the second sentence with the following: "This Article will promote satisfactory local and in-state long distance telecommunications service to the public and will establish the rights and responsibilities of telecommunications companies and customers whenever a change in Authorized Carrier is processed."*

...

#### **R14-2-1904 Authorized telecommunications company change procedures**

- E. ~~For a~~ A telecommunications company executing a change, ~~compliance with this section shall consist of prompt execution of changes that have been verified by a submitting telecommunications company.~~ shall execute such changes as promptly as reasonable business practices will permit. The executing telecommunications company shall have no liability for processing an unauthorized change.**

*Comment: The final sentence of this subsection unnecessarily restricts the Commission's authority to regulate telecommunications companies. A situation could arise where the Commission wanted and needed to hold an executing carrier liable for their own processing errors. AT&T recommends that the Commission strike this sentence. AT&T also recommends that the Commission insert a new last sentence to insure that no company unfairly bears liability for a carrier change that it did not initiate or submit. A carrier change can be initiated at the local executing carrier in at least two ways. First, a customer is able to directly contact his/her local executing carrier and request a change in his/her local toll or long distance service. (This is commonly referred to as a "LEC Connect." Second, a local executing carrier may, through clerical errors, switch the wrong number. The proposed new last sentence is: "An IXC shall have no liability for an unauthorized change for which it never submitted a service change order because the change was initiated at the local executing carrier."*

- F. When a telecommunications company is selling more than one type of services (local, intraLATA, interLATA), it shall obtain separate authorization from the subscriber for each all services sold during a single contact. ~~G. Each authorization described above shall be verified separately from any other authorizations obtained in the same solicitation and in accordance with the verification procedures prescribed in this part.~~**

*Comment: The initial draft of the proposed rules required that each service be verified separately. This is necessary, appropriate and consistent with the FCC requirements See 47 C.F.R. 64.1160((e)(4). The Second Draft revisions to sub-parts F and G eliminate the separate verification requirement and are not in the public interest. AT&T suggests that subsection G -- which is stricken in the Second Draft -- be restored and the final phrase of subsection F read as follows: **it shall obtain a separate authorization from the subscriber for each service, however, multiple verifications can occur during a single contact.**" For example, a customer who authorizes service changes to two different services on the same line and/or for more than one home line should verify each service change, but should be allowed to do so in one call with the TPV verifier to the extent feasible by the verifier and/or the carrier requesting verification.*

#### **R. 14-2-1905 Verification of orders for telecommunications services**

- A. No telecommunications company shall submit a preferred telecommunications company change order unless and until the order has first been confirmed in accordance with one of the following:**
- 1. The telecommunications company has obtained the customer's written authorization in a form that meets the requirements of this section;**

2. The telecommunications company has obtained the customers electronic Internet-enabled authorization with electronic signature to submit the preferred telecommunications company change order that meets the requirements of the section; or
3. An independent third party qualified under the criteria set forth in subpart F has ~~A qualified independent third party has~~ obtained and recorded the customer's verbal authorization to submit the preferred telecommunications company change order that confirms and includes appropriate verification data pursuant to the requirements of this section.

*Comment: "Internet-enabled authorization" and "electronic signature" are themselves distinct concepts and are different from an "electronic authorization." An electronic authorization allows a customer to call a toll-free number, reach a voice response unit of the switching carrier, and confirm a requested switch is authorized. This type of authorization has nothing to do with internet access or electronic signatures. AT&T recommends eliminating the changes proposed in 1905(A)(2), or at minimum restoring the "electronic authorization" language in 1905(A)(2). As 1905(E) indicates, a telecommunications company may collect customer consent through electronic authorization.*

**B. Written authorization obtained by a telecommunications company shall:**

- ...
4. Not be combined with any inducement of any kind; except a letter of agency may be combined with a check. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold-face type on the front of the check, a notice that the customer is authorizing a preferred telecommunications company change by signing the check. This language shall be placed near the signature line of the back of the check.

*Comment: In the last line of subsection (4) replace "of the back" with "on the back."*

**C. A telecommunications company that obtains a customer's electronic voice recorded authorization shall ~~comply with the following:~~**

- ~~1. The authorization call shall be placed from the telephone number(s) on which the preferred telecommunications company is to be changed; and~~
- ~~2. The authorization call shall confirm the customer identification and service change information. required.~~

*Comment: The Second Draft revisions to 1905(C) eliminate the difficulties created if verification calls must be placed from the ANI being changed. However, the rule*

*continues to improperly combine audio recording (for verification) and electronic authorization. The rules should allow for "electronic authorization" or "audio recorded 3<sup>rd</sup> party verification," but not an amalgamation of the two.*

*AT&T continues to urge the Commission, for consistency and ease of implementation, to adopt the verification methods found in the FCC Rules. 47 C.F.R. §64.1150.*

- D. A telecommunications company electing to confirm sales electronically telephonically shall establish one or more toll free telephone numbers exclusively for that purpose.**

*Comment: Replacing "electronically" with "telephonically" is confusing. The FCC rules define, and the carriers understand, what is meant by "electronic authorization." AT&T recommends that the original language of the rule be restored.*

- F. A telecommunications company that obtains a customer's authorization verified by an independent third party shall comply with the following:**

...

- 1. The independent third party shall inform the customer that call is being recorded and record the customer's authorization to change telecommunications company and consent to recording unless the customer objects;**

*Comment: Add "the" between "that" and "call" in the very first line of subpart 4.*

...

- G. All third party verifications shall be conducted in the same language that was used in the sales transaction.**

*Comment: Please add "underlying" before "sales" in the second line of G. After the word transaction, please add, "unless the customer requests verification in a different language."*

...

#### **R. 14-2-1906 Notice of Change**

- A. When a ~~preferred telecommunications~~ an authorized carrier has changed a customer's service, the new company, or its billing and collection agent, on its behalf, shall ~~insert a conspicuous notice in the customer's next bill highlighting the change in service~~ clearly and conspicuously identify any change in service provider, including the name of the new telecommunications ~~carrier~~ company, their address and telephone number.**

*Comment: As originally drafted, this rule required Telecommunications Companies to provide notice to customers on their bills. This requirement parallels federal Truth in*



*Billing Requirements for Common Carriers. The Second Draft revision eliminates the reference in the rule to "the customer's next bill." AT&T recommends that the "next bill" language be restored so as to connect the "Notice of Change" requirement to bills sent to Customers.*

*The federal Truth in Billing regulations require carriers to clearly and conspicuously identify new service providers on each customer's bill. AT&T complies with this requirement today and agrees with its inclusion in the Arizona slamming and cramming rules. Rule 1906, however, goes beyond the federal rules by requiring disclosure of the new provider's address and telephone number. AT&T does not bill for other carriers and thus does not have addresses or telephone numbers for those carriers. Any Telecommunications Company that submits a service change request naming another carrier, will encounter this same difficulty.*

*To accomplish these suggested revisions, AT&T asks the Commission Staff to insert " , identify the carrier providing service on the customer's bills," after "shall" in line 3 and strike "clearly and conspicuously identify any change in service provider" and strike " , their address and telephone number" in the final sentence.*

...

#### **R. 14-2-1907 Unauthorized charges**

*Comment: AT&T reiterates its request that the Commission incorporate here the FCC procedures for "Resolution of Unauthorized Changes in Preferred Carrier" found in §64.1150, the "Absolution Procedures Where the Subscriber Has Not Paid Charges" found in §64.116, and the "Reimbursement Procedures Where the Subscriber Has Paid Charges" found in §64.1170. The Arizona rules are, in part, inconsistent with processes set forth in the FCC rules. These inconsistencies will create compliance and enforcement problems in the future.*

- A. A customer shall promptly notify the telecommunications company of any unauthorized change.**
- B. If Once a customer notifies the telecommunications company that the a customer's service arrangement is was changed without verification consistent with these rules, it is the responsibilities of the telecommunications company ~~initiating~~ submitting the unauthorized a change to:**
  - 1. Take all actions within its control to facilitate the customer's ~~prompt~~ return to the original telecommunications company ~~within business three days of the customer's request; as promptly as reasonable business practices will permit, but no later than five business days.~~**
- C. Once a determination has been made that a slam occurred, the unauthorized telecommunications company must pay all charges associated with returning the customer to the original telecommunications company ~~within five~~**

**business days of the customer's request as promptly as reasonable business practices will permit, but no later than 30 business days.**

...

*Comments:*

(1) Rule, 2-1907, implies that a customer need only assert an unauthorized switch and it is deemed proved. In practice, many (perhaps most) alleged slams turn out to be misunderstandings and are quickly resolved. In a minority of cases, a customer and a carrier disagree on whether a switch was authorized and the Commission must resolve the dispute. To reflect these realities, AT&T asks that the word "alleged" be added in the first line of 1907(A) immediately before "unauthorized change." In subpart (B), AT&T asks that "notifies the telecommunications company" be struck and "alleges" be inserted. Likewise, AT&T asks the Commission to insert "that allegedly" after "telecommunications company" and, in subpart (C), "by the Commission" following "has been made."

(2) AT&T reiterates here an issue addressed in the first round of comments. The Telecommunications Company submitting an unauthorized change has no power or authority to undo the switch. As a result, 1907(B)(1) which requires the Company to "take all actions within its control to facilitate the customer's return to the original telecommunications company" misleads consumers. A long distance carrier is not allowed to submit a "pic-away" order for a customer. The customer must contact their preferred carrier or local exchange carrier to arrange to return to his or her original Telecommunications Company. The company that may have wrongfully submitted an unauthorized change is not capable of switching the customer back unless the company is the customer's local exchange provider as well. AT&T recommends the Commission Staff delete this sub-section to avoid consumer confusion.

(3) Rule 1907(C) addresses the liability of a Telecommunications Company for an unauthorized switch. It is possible for a customer to be switched to a carrier, through no fault of that carrier. In anticipation of this problem, AT&T asks that the following sentence be added to sub-part (C): "A Telecommunications Company shall have no liability for a switch order placed by or initiated at the Customer's existing local exchange carrier."

(4) Rule 1907(C) gives an unauthorized Telecommunications Company 30 business days to pay all charges associated with returning a customer to the original Telecommunications Company. Unfortunately, even when a carrier acts immediately on an unauthorized switch, it can take up to two billing cycles to fully credit a LEC billed customer. To solve this problem, AT&T suggests that "30 business days" in subpart C be adjusted upward to "40 business days."

...

**(C) – continued ("the unauthorized telecommunications company must . . . .")**

**4. Pay the original telecommunications company any amount paid to it by the customer that would have been paid to the original telecommunications company if the unauthorized change had not occurred, within 30 business days of the customer's request.**

**5. Return to the customer within 30 business days of the customer's request:**

- a. Any amount paid by the customer for charges incurred during the first 30 days after the date of an unauthorized charge; and,**
- b. Any amount paid by the customer after the first 30 days in excess of the charges that would have been charged if the unauthorized change had not occurred; and**
- c. Remove all unpaid unauthorized charged from the customer's account.**

...

*Subparts 4 and 5(a)-(c) are problematic insofar as they require carriers to re-rate calls following an unauthorized switch. After much deliberation with industry groups on this issue, the FCC decided to avoid re-rating requirements and instead allow consumers to choose to have calls re-rated, or receive a proxy refund, the later almost always resulting in a more generous refund to the consumer. The proxy refund required each unauthorized carrier to refund 150% of the charges to the authorized carrier, with the authorized carriers then entitled to refund to the customer the extra 50%. Thus, the FCC increased penalties for slamming and increased the incentives for authorized carriers to go after slammers, while ensuring that consumers receive compensation. The time-consuming business of re-rating calls (and all necessary investigation into the true cost of the original service) is intentionally avoided by the FCC's remedy. Simplifying the refund process, as the FCC has done, benefits providers and customers alike. (Note that this re-rating issue only arises if a customer has paid the bill. If the customer has not paid the charges, the unauthorized carrier may simply forward a copy of the charges to the authorized carrier for correct payment.) AT&T suggests that the Commission eliminate the re-rating requirements in subparts 4 and 5 and adopt a refund system that allows consumers to choose between having the calls re-rated or receiving an approximate (proxy) refund.*

*Subpart 5(a) is also problematic because it requires an unauthorized carrier to refund the customer all charges paid during the first 30 days of service after a determination that the customer was slammed. The FCC rules allow that if the customer has already paid for these 30 days the customer just receives the proxy refund or re-rate. It is where the customer has never paid for the first 30 days that the FCC rules absolve the customer of liability for the first 30 days temporarily pending informal adjudication of the customer's complaint and permanently if it is determined that the customer was slammed. The FCC's rules created an incentive for customers to review their bills every month to check who their carrier is and immediately complain if they believe they have been slammed. It is in the customer's best interests to leave this incentive intact. Additionally, it is in the best interests of the customer to have consistency between state and federal rules. The customer will be very confused if there are different refund standards for slamming of instate versus interstate telephone service.*

...

**R. 14-2-1908 Notice of customer rights**

...

**B. The customer notice shall state:**

...

- 5. An unauthorized telecommunications carrier company ~~which~~ that has changed a telephone service without the customer's permission is required to provide all billing records to the customer's original telecommunications company within 10 business days of the customer's request.**

*Comment: If an unauthorized switch is caused by a LEC processing error, the telecommunications company now assigned to the customer may not have any customer billing records. AT&T asks that the word "available" be inserted immediately before "billing records." ...*

- 9. A customer that has been slammed should report the unauthorized change to the Arizona Corporation Commission.**

*Comment: This rule, like 1907(B), implies that a slamming allegation need not be proved, just asserted. AT&T suggests the following replacement language:*

- 9. Any customer who suspects that his or her telecommunications service has been switched without authorization, shall report the suspected slam to the Arizona Corporation Commission for investigation and adjudication by the Commission.**

...

**D. A telecommunications carrier company is to send notice described in this rule to new customers at the time service is initiated, and upon customer request.**

*Comment: AT&T reiterates its prior comment that sending a notice of this sort to all customers is not in the public interest. Every new AT&T customer is given a toll free number to call if they believe they have been the victim of an unauthorized switch. Any customer calling regarding an unauthorized switch is informed of his or her rights as a customer. Providing this information to customers who have not been affected by unauthorized switched activity, creates confusion, adds to the deluge of mail received by consumers, and invites fraud. AT&T suggests that this provision read as follows: "A Telecommunications Company shall send the Notice described in this rule to any customer upon request."*

...

**F. Each telecommunications company shall display the notice on the company's web site.**

*Comment: Producing state-specific information on the AT&T world-wide web-site is problematic. AT&T suggests instead that this subsection be amended to require carriers to post on their web sites the toll-free number a customer should call if they believe an unauthorized switch has occurred. This revision can be accomplished by inserting after "display" the following: "the toll free number(s) a customer can call for assistance with any problems related to an apparent unauthorized switch." The AT&T toll free number connects consumers to the AT&T Slamming Resolution Center. That Center can make copies of the Notice of Customer Rights available to Arizona residents who call the Center.*

...

**R. 14-2-1909 Customer account freeze**

*Comment: AT&T understands that Rule 1909 applies only to intraLATA and interLATA account freezes, as set forth in 1909(C). This is imperative. The Commission should not promulgate a rule that allows an account freeze to be placed on a customer's local carrier choice. The market is not yet sufficiently competitive and the infrastructure needed to support such a requirement does not exist.*

*The local market is still far from competitive in Arizona. Qwest still at least 93% of the local residential market and 93% of the local business market. Practically speaking, the vast majority of any "account freezing" for local service would be Qwest locking in current customers. As the incumbent monopolist, Qwest is uniquely situated to contact and persuade current customers to make use of the "free" option to freeze all service choices. New entrants do not enjoy this enormous market advantage.*

*Structurally, Arizona is not ready for account freezes at the local level. To the best of AT&T's knowledge, most new LECs do not offer a PIC freeze protection in their switch or operations. Indeed, most customers with a PIC freeze in place on intraLATA toll or long distance would lose that PIC protection if they chose to change their local service carrier away from Qwest. In most cases, perhaps all, the customer will receive no notice either from its new carrier or its old that its has lost its PIC freeze protection. The new carrier will be in no position to advise the customer of the change in its PIC freeze status because it will have no knowledge that the protection ever existed. There is no existing system for informing new carrier of PIC freeze status as part of the carrier change process. In sum, not only is the system structurally incapable of implementing a local account freeze, the PIC freeze system that is currently in place is fundamentally flawed because customers' choices are not adequately protected when the local service provider is changed.*

*AT&T has recommended in a number of jurisdictions – and recommends here to the Arizona Corporation Commission – the development of a central administrative process operated by a neutral third party administrator ("NTA") reporting directly to the*

*Commission to manage the PIC change, PIC freeze imposition and PIC freeze lift processes. Good reasons for developing an NTA abound. First, an NTA is the only system that will insure that PIC freeze protection is available to all customers in Arizona. Second, an NTA offers the only system that will insure that customers that change local carrier will not inadvertently lose existing PIC freeze protection(s) on local toll and long distance service. Third, an NTA is the only system that will insure that PIC freeze protection are effective when customer change both local and long distance carrier. Fourth, an NTA eases the burden of regulatory supervision, Fifth, since the neutral PIC freeze administrator is not a competitor, the Commission can be confident that the system is not being gamed either to weaken consumer protections against slamming or to make it unduly difficult for customers to change carrier when that is what they wish to do. Sixth, with the expected advent of any distance competition, a neutral PIC freeze administrator will insure that it is not the ILEC with 98% of the residential market share who administers pic freeze program for the majority of all Arizona customers as such would give the ILEC a "fox guarding the henhouse" motivation to reject as account freeze service orders from its direct competitors. Finally, and of greatest significance to the Commission, properly constructed, such a system should nearly abolish the problem of slamming.*

*AT&T recommends that the Commission appoint a study group to explore the feasibility of a neutral 3<sup>rd</sup> party administer in Arizona. In the interim, local account freeze rules that apply to local service should not be adopted. The revision to sub-section (H) noted below addresses this concern specifically.*

- E. A local exchange company shall not implement a freeze unless a customer's request is verified freeze authorization is written, electronic, or verbal authorization with 3<sup>rd</sup> party verification.**

...

*Comment: For clarity AT&T suggests that the Commission strike the "authorization" following "verbal." Also, AT&T recommends using "confirmed by" rather than "with" immediately before "3<sup>rd</sup>."*

- F. A local exchange company shall allow A customers may to lift a the freeze by on its account with written, electronic, or verbal authorization with 3<sup>rd</sup> party verification.**

*Comment: A customer should be able to change his or her telephone service provider -- and have any account freeze lifted -- without multiple calls to multiple providers. For this reason, the FCC requires a local exchange company to accept a three-way call from a customer and another carrier and, pursuant to that call, immediately lift any account freeze and accept the customer's PIC change request. For example, if Mr. Jones calls AT&T to sign up for AT&T long distance service, AT&T, with Mr. Jones on the line, should be able to conference in Qwest and allow Mr. Jones to lift his account freeze. Local exchange carriers should be required to accept such calls and lift any freeze*

*without separate calls or letters from the customer. FCC rules do not require special authorization or third party verification (for verbal) to lift a customer account freeze. The FCC rules clearly do contemplate the three way call described above. There is simply no reason a LEC should not be required to process a customer's account freeze request in a single call. Since the inception of the presubscription program in 1985, LECs have been required to accept carrier change orders submitted directly by end users to the LECs. See Investigation of Access and Divestiture-Related Tariffs, 101 F.C.C.2d 911 ((1985) ("Allocation Plan Order").*

*Consistent with these comments, AT&T asks that the Commission Staff revise this rule by inserting the following sentence, which allows the removal of a freeze via a three way call: "A local exchange carrier must lift an account freeze and accept the customer's PIC change request pursuant to a three way call between the customer, the local exchange carrier and another Telecommunications Company, if the customer so requests*

**H. A local exchange company shall not impose a freeze on local service, intraLATA or intrastate telecommunications on its own initiative.**

*Comment: As explained above, Rule 1909 should not allow or require an account freeze for local service. Sub-section (H) should be revised to eliminate the reference to "local service." Also, AT&T asks that "or solicit a freeze request from its customer" be added as the final phrase of this sub-section. This revision is important given the monopoly status Qwest retains over telecommunications in Arizona. If Qwest is the account freeze administrator and can, by virtue of its position as the incumbent monopolist, communicate with the vast majority of Arizona households, Qwest will solicit and freeze Arizona consumers. This will further diminish service opportunities available to new entrants and will harm competition.*

...

**R14-2-1910 Complaint Process**

**A. An informal complaint ~~shall~~ may be in writing, telephonic or electronically transmitted. ~~and should contain:~~ Information should include:**

...

*Comment: AT&T suggests that the Commission also request from the complainant copies of Telecommunications Company bills, where available. Bills can be enormously helpful when sorting out an unauthorized switch complaint and facilitating the appropriate adjustments for consumers.*

...

**III. ARTICLE 20. CONSUMER PROTECTION FOR UNAUTHORIZED CARRIER CHARGES**

...

#### **R-14-2-2006 Unauthorized Charges**

A. If a customer's telephone bill is charged for any unauthorized product or service ~~without proper customer consent as described in R14-2-2006~~, the billing telecommunications company, on its knowledge or upon notification of any unauthorized charge, shall promptly as reasonable business practices will permit, but not later than 45 60 days from the date of obtaining knowledge or notification of an unauthorized charge, ~~shall~~:

1. ~~Notify the billing telecommunications company to~~ Immediately cease charging the customer for the unauthorized product or service;

*Comment: AT&T asks that the Commission Staff Strike "immediately" as inconsistent with the 60 days permitted to reflect the bill correction.*

...

3. Refund or credit to the customer all money that has been paid by the customer for any unauthorized charge, and if any unauthorized charge that has been paid is not refunded or credited within three billing cycles, shall pay interest on the amount of any unauthorized charge at an annual rate established by Commission pursuant to A.A.C. R 14-2-503(B) until the unauthorized charge is refunded or credited:

...

5. Maintain for at least ~~24 months~~ two years a record of every customer who has experienced any unauthorized charge for a product or service on the customer's telephone bill and has notified the billing provider of the unauthorized charge. The record ~~shall contain~~ for each unauthorized charge shall include:

- a. The name of the telecommunications company that offered the product or service;
- b. Any affected telephone number;
- c. The date each customer requested that the billing provider remove the unauthorized charge from the customer's bill; and,
- d. The date the customer was refunded or credited any money that the customer paid for unauthorized charges.



*As AT&T explained in its prior comments, this record-keeping requirement is too onerous and conveys no appreciable benefit to consumers. If the Commission is concerned about repeated cramming incidents, each individual customer account will reflect all cramming claims, refunds, findings, etc. If the Commission is looking for aggregate data on cramming complaints, that can be accomplished by maintaining records on complaints generally, without storing unnecessary details on individual complaints.*

*As mentioned in its prior comments, AT&T has service centers throughout the United States. Thousands of customer representatives field calls and, if possible, immediately resolve the customer's problem. While AT&T tracks and aggregates very basic information regarding these calls, details of each contact (e.g. what day was the customer refunded) are not all collected and stored. Tracking and storing individual complaints for two years, with the level of detail required by 2006(A)(5), would be extremely difficult. The costs associated with such record keeping would ultimately be paid by the consumer and far outweigh any imaginable benefits.*

...

*AT&T asks that a new sub-section B be added to R14-2-2006. This new sub-part addresses what is known as the "continuing customer" problem.*

- B.** *If the charge for a product or service was previously authorized by the customer, the Telecommunications Company shall have no liability if the customer switched the service with which the charge was associated unless the Company receives timely notice from the customer's new local exchange carrier, local toll or long distance provider that the customer has been switched away from its previously authorized carrier's network. Except, upon request from the customer, and confirmation that the customer was assigned to a new carrier, the previously authorized carrier shall, to the extent appropriate, issue adjustment(s) to the customer for charges incurred after the customer was switched away from the carrier's network.*

...

#### **R14-2-2007 Notice of Customer Rights**

...

- B. The customer notice shall include the following:**

...

- 6. A statement that a crammed customer that has been crammed should call the Arizona Corporation Commission to report the unauthorized change.**

...

*Comment: Like 2-1908(B)(9), this statement improperly presumes that the unauthorized charge has been proved. AT&T asks that the Commission insert between "customer" and "should" the following language: "who suspects that he or she has been charged for an unauthorized product or service." Additionally, the word "change" in the last sentence of this proposed rule should probably be "charge."*

**C. Distribution, language and timing of notice:**

1. A telecommunications company shall send provide the notice described in this rule to new customers at the time service is initiated and upon customer request.

...

2. Each telecommunications company shall display notice of customer's rights on the company's web site.

...

*Comment: Please see comments to R14-2-1908(D) and (F). Identical issues are presented by the Notice of Customer Rights required under the proposed cramming rules.*

**R14-2-2008 Complaint Process**

- A. An informal complaint shall may be in writing, telephonic or electronically transmitted, and should contain Information should include:

...

*Comment: AT&T suggests that the Commission also request from the complainant copies of Telecommunications Company bills, where available.*

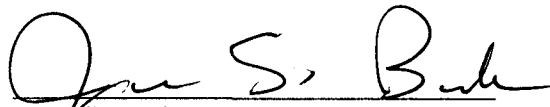
...

**IV. CONCLUSION**

AT&T again thanks the Commission for this opportunity to comment on the Draft Rules and looks forward to discussing the rules at the workshop scheduled for August 30, 2001.

Respectfully submitted this 6<sup>th</sup> day of August, 2001.

AT&T COMMUNICATIONS OF THE  
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## CERTIFICATE OF SERVICE

I hereby certify that the original and 10 copies of the Comments of AT&T on the Draft Slamming and Cramming Rules, regarding Docket No. RT-00000J-00-0034, were hand delivered this 6th day of August, 2001, to:

Arizona Corporation Commission  
Docket Control – Utilities Division  
1200 West Washington Street  
Phoenix, AZ 85007

and that a copy of the foregoing was hand-delivered this 6th day of August, 2001 to the following:

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and that a copy of the foregoing was sent via United States Mail, postage prepaid, on the 12th day of July, 2001 to the following:

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